

**MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS**

FINAL STATEMENT OF REASONS

Hearing Date: November 4, 2005

(1) Section(s) Affected: Title 16, California Code of Regulations, Section 1314.1

Updated Information

The Initial Statement of Reasons is included in the file. The board modified the proposal, to clarify how the date of recognition will be determined and to permit a case by case evaluation of education obtained prior to the date of recognition, in response to comment received at the hearing. The Board authorized the Executive Director to adopt the proposed amended modifications after the required notification and comment period if no adverse comments were received.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Small Business Impact

This regulation will not have a significant adverse economic impact on business.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the board/bureau/commission/program would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Objections or Recommendations/Responses

45-Day Notice Period

The following written comments/objections were made regarding the initial proposed action:

Letter from Tom Curtis, Esq., BondCurtis, LLP, dated October 21, 2005.

Objections/concerns taken from the above listed correspondence:

1. Mr. Curtis states the proposed regulatory amendment's initial statement of reasons does not set forth facts to demonstrate the necessity for the adoption of CCR, Section 1314.1(f).

This objection was considered at the hearing and was rejected, as the Division believes there to be sufficient evidence of necessity.

2. The Initial Statement of Reason does not define any existing problem with graduates of foreign medical schools receiving substandard or inferior medical education.

This objection was rejected because the medical schools approved by the Medical Board of California are accredited by the Liaison Committee on Medical Education (LCME) for U.S. and Canadian medical schools or the medical school is owned by and/or regulated by the government in which the school is located and the primary purpose of the medical school is to teach the native citizens medicine to practice in their country. The medical schools that must apply for recognition with the Medical Board of California are for profit schools located in another country that primarily teach students who plan to seek medical licensure in the United States. No agency similar to LCME accredits international medical schools worldwide. The privately owned for profit medical schools are not bound by government oversight in the country in which they are located regarding curriculum and/or quality of education. The Board has previously evaluated international medical schools resulting in recognition and/or partial recognition for some medical schools and disapproval for some of the medical schools. The list of recognized and disapproved schools is on the Board's Web site at www.caldocinfo.ca.gov. The Board has disapproved nine medical schools because they provided substandard medical education. The English language programs run by a medical school that has a recognized native citizen/language program do not necessarily have the same curriculum as the native citizen/language program and targeted specifically at nonnative citizens who do not intend to practice medicine in the country of instruction.

3. Mr. Curtis states the purpose of the proposed regulation is to sweep under the rug the Board's delays in processing applications from foreign medical schools seeking recognition by the Board. Mr. Curtis also believes his clients, Medical University of Silesia (English language program) and Medical University of Poland (English language program) have been victims of such delays.

These objections were rejected. They are not relevant to the proposed regulation. Even assuming their relevance, the process is lengthy, given the nature of the review in question. The applications in question were incomplete. To date the Board has not received the requested information to continue the review process.

4. Mr. Curtis stated if the proposed amendment were adopted, any medical student who attended a medical school during the time the school's application was submitted to the Board, but before that school was recognized by the Board, would be prevented from

continuing their medical training or from obtaining a license to practice in California even though the Board would have possessed the requisite information about the applicant's school at the time the applicant was in attendance. Mr. Curtis also stated this would adversely affect students who attended a medical school prior to the medical school receiving recognition from the Board.

This objection was considered at the hearing and resulted in the proposed amended modified text to Title 16, California Code of Regulations, Section 1314.1(f) included in this file.

5. Mr. Curtis is requesting the Board to conduct a time frame study of the time it currently takes to process applications of foreign medical schools "(as compared with other applicants)" from date of application to date of acceptance/rejection. Base upon the findings of the study, the Board could establish reasonable time frames by which these applications should be processed including the time frame for site visits and the final outcome of the application.

This objection was rejected. The Board does not understand what the commenter is seeking, since foreign medical schools are the only "applicants." Applicants for medical school recognition are not similarly situated since each school is different and many parts of the process are not within the control of the Board but rather are within the control of the school. For example the length of time each school takes in submitting all requested information; the Medical Board's consultant(s) schedule; the amount of time necessary for the consultant(s) to review and analyze each individual school's supporting documentation: If a site visit is required the Board needs to obtain approval from the Governor's office for out of state/country travel and must obtain a budget change proposal approval for the out of state/country travel, before the Board may conduct the site visit. In the past a natural disaster delayed the review process. The school had to rebuild after a hurricane.

At the November 4, 2005, public hearing, the board heard the following two testimonies in opposition to the proposed regulation:

Stewart Hsieh, Esq., Frye & Hsieh

1. The proposed regulation may create a problem for the Board in regards of approved schools with two language programs needing to reapply.

This objection was rejected because the Division feels the regulation will not create problems for the schools. Currently the only medical schools with two language programs that need apply for recognition are the schools that are approved in their native language program, who primarily teach native citizens to practice medicine in their country, and then open an English language program to teach medical students who intend to seek medical licensure in the United States, specifically if their students intend on seeking licensure in California.

1. Ms. Hersh objected to the proposed regulation because the Board should have given notice to the schools with pending applications of the proposed regulation.

This objection was rejected. The Board's public notice of the proposed change of the regulation is in compliance with the Administrative Procedure Act.

2. Ms. Hersh stated the initial statement of reasons does not set forth facts that demonstrate necessity.

This objection was considered at the hearing and was rejected, as the Division believes there was sufficient evidence of necessity.

3. Ms. Hersh said site visits are elective not required; therefore, the proposed regulation that states "...from the date of the site visit evaluation..." makes no sense unless it is now the decision to have site visits for each and every applicant. She also stated the rational offered is that "site visit teams can only base its decisions on the qualifications of the current educational program as it has no factual basis for determining whether or when in the past the program might have met the standards as set forth in the regulation." The information regarding the past educational program of an applicant can be obtained by asking for the information.

This objection was considered at the hearing and resulted in the proposed amended modified text to Title 16, California Code of Regulations, Section 1314.1(f), included in this file.

4. Ms. Hersh stated her firm represents two schools who submitted applications in June 2003, and the delay in processing the applications negatively impacts license applicants from those schools. She requested the DOL to consider a study of the time it takes for foreign school applications to be processed until the time a decision is made because they believe there are delays that are prejudicing applicants.

This objection and request were rejected. They are not relevant to the proposed regulation. Even assuming their relevance, the process is lengthy, given the nature of the review in question. The applications in question were incomplete. Applicants for medical school recognition are not similarly situated since each school is different and many parts of the process are not within the control of the Board but rather are within the control of the school. For example the length of time each school takes in submitting all requested information; the Medical Board's consultant(s) schedule; the amount of time necessary for the consultant(s) to review and analyze each individual school's supporting documentation: If a site visit is required, the Board needs to obtain approval from the Governor's office for out of state/country travel and must obtain a budget change proposal approval for the out of state/country travel, before the Board may conduct the site visit.

15-day Comment Period

The Board did not receive any comments regarding the modified text.